

SUBCOMMITTEE NO. 2

Agenda

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Room 112

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Resources—Environmental Protection—Energy

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3480 Department of Conservation

Background. The Department of Conservation (DOC) is charged with the development and management of the state's land, energy, and mineral resources. The department manages programs in the areas of: geology, seismology, and mineral resources; oil, gas, and geothermal resources; agricultural and open-space land; and beverage container recycling.

Governor's Budget. The Governor's Budget proposes \$874 million to support DOC in the budget year. This is the same level of funding as is estimated for expenditure in the current year. General Fund support for the department is proposed to be 16 percent less in the budget year due to a one-time transfer from the General Fund to the department's Oil, Gas, and Geothermal Administrative Fund due to a recent statutory change.

Summary of Expenditures				
(dollars in thousands)	2005-06	2006-07	\$ Change	% Change
Type of Expenditure				
Geologic Hazards and Mineral Resources Conservation	\$27,474	\$22,695	-\$4,779	-17.4
Oil, Gas, and Geothermal Resources	16,951	16,984	33	0.2
Land Resource Protection	44,819	12,839	-31,980	-71.4
Beverage Container Recycling and Litter Reduction	797,670	827,302	29,632	3.7
Office of Mine Reclamation	-	5,363	-	-
Administration	11,301	11,438	137	1.2
<i>less distributed administration</i>	<i>-11,301</i>	<i>-11,438</i>	<i>-137</i>	<i>0.0</i>
Total	\$886,914	\$885,183	-\$1,731	-0.2
Funding Source				
General Fund	\$4,938	\$4,165	-\$773	-15.7
Special Funds	828,050	859,477	31,427	3.8
Bond Funds	42,545	9,964	-32,581	-76.6
<i>Budget Act Total</i>	<i>875,533</i>	<i>873,606</i>	<i>-1,927</i>	<i>-0.2</i>
Federal Trust Fund	1,745	1,779	34	1.9
Bosco-Keene Renewable Resources Investment Fund	872	901	29	3.3
Reimbursements	8,765	8,897	132	1.5
Total	\$886,915	\$885,183	-\$1,732	-0.2

1. Williamson Act

Background. The Williamson Act allows cities and counties to enter into contracts with landowners to restrict certain property to open space and agricultural uses. In return for these restrictions, the property owners pay reduced property taxes. The contracts entered into between local governments and property owners are ten-year contracts, which are typically renewed each year for an additional year, with the result that the contract remains at a constant 10 years. Landowners who do not renew their contracts face gradual increases in their property tax over a ten-year period to the level at which unrestricted land is taxed. Landowners who cancel their Williamson Act contracts must pay a penalty of 12.5 percent of the unrestricted fair market value of the land.

Governor's Budget. The Governor's Budget proposes \$896,000 (\$463,000 from the Soil Conservation Fund and \$433,000 from Proposition 12 bond funds) to fund five 2-year limited-term positions and additional contract funds to increase enforcement of the Williamson Act.

Workload Justification. The department currently has 7.5 positions supporting the Williamson Act. The budget proposal would augment this program by over 60 percent. However, the department estimates that, with the new positions, it could raise an additional \$4.5 million in revenues for the General Fund by ensuring accurate and timely payment of Williamson Act contract cancellation fees and ensuring that state subventions to local governments are based on qualifying contracted lands. This is a projected five-to-one return on investment for the state. The department will reassess its enforcement efforts after the two-year period to determine whether the increased enforcement efforts are justified. The Legislature provided \$350,000 for this purpose in the 2005 budget, but these funds were vetoed by the Governor.

Staff Comments. The Governor proposes \$433,000 from Proposition 12 bond funds to support this program. These funds have been supporting the Williamson Act program since 2004-05 when General Fund monies were cut from this program. While staff understands that bond funds have been utilized to backfill General Fund reductions to this program over the past two years, this is not an appropriate use of bond funds and it is not a sustainable source of funding for this program. These bond funds were intended to be used to acquire agricultural easements, which is a more appropriate use of bond funding.

Current law allows the department to deposit the first \$2 million of Williamson Act fines and penalties it receives in the Soil Conservation Fund to support its program. The remaining fines and penalties from the Williamson Act are transferred to the General Fund. Staff finds that since the budget proposal is projected to bring in \$5 for every \$1 spent by the department, it seems appropriate to fund the entire program from the fines and penalties raised by the department. This would free up nearly \$1 million in additional bond funding for the California Farmland Conservancy Program.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve trailer bill language that amends Government Code §51283 to increase by \$500,000 the amount of Williamson Act penalties the department can keep to fully fund the expanded Williamson Act program.

- Approve \$896,000 from the Soil Conservation Fund to fund the Governor's budget proposal.

2. California Farmland Conservancy Program

Background. The California Farmland Conservancy Program was established in 1996 and provides grant funding for the planning and voluntary acquisition of agricultural easements. Proposition 40 provided \$75 million for the preservation of agricultural lands, grazing lands, and oak woodlands. These funds have been allocated to the following programs:

- California Farmland Conservancy Program - \$38 million.
- Rangeland, Grazing and Grassland Program (Wildlife Conservation Board [WCB]) - \$19 million.
- Oak Woodlands Conservation Program (WCB) - \$5 million.

Governor's Budget. The Governor's Budget proposes \$8.9 million from Proposition 40 for grants to conserve agricultural lands. These funds will fund the California Farmland Conservancy Program and are available for the planning and voluntary acquisition of agricultural conservation easements.

Staff Comments. Staff finds that the administration has made a policy choice to allocate the remaining Proposition 40 bond funds to the California Farmland Conservancy Program at the department. These funds are also eligible for preserving agricultural land through the Rangeland, Grazing, and Grassland Program and the Oak Woodlands Conservation Program, which are both administered by WCB.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open and request that staff, the department, the WCB, the LAO and DOF evaluate the relative needs and the cost effectiveness of each of these programs in preserving agriculture land.

3. Beverage Container Recycling Program

Background. The DOC's Division of Recycling administers the California Beverage Container Recycling and Litter Reduction Act (commonly referred to as the bottle bill) to achieve and maintain high recycling rates for beverage containers included in the program. The DOC provides a number of services to achieve these goals, including enforcement, auditing, grant funding, technical assistance, and education. Revenues to the Beverage Container Recycling Fund increased 40 percent in 2004-05 due to the implementation of legislation (AB 28, Jackson) enacted in 2003 that increased the deposit for beverage containers sold in California.

Governor's Budget and Finance Letter. The Governor's Budget proposes \$904,000 from the Beverage Container Recycling Fund to fund eight 2-year limited-term positions to combat fraud in the Beverage Container Recycling Program. The Finance Letter (dated March 30, 2006) proposes \$5.2 million in one-time funds from the Beverage Container Recycling Program to support the implementation of an integrated information technology system for the Division of

Recycling (DORIIS) to improve the department's ability to provide timely remittances and to detect fraud.

Workload Justification. The department reports that between 2001 and 2004, the department conducted audits of 206 recycling centers. These audits revealed that as many as 90 percent of all claims were fraudulent and \$45 million in claims were not paid to these centers. On average, the department's 12 auditors each uncovered \$1 million in fraud annually, which is a nine-to-one return on investment. The budget proposal would increase the department's auditing resources by over 60 percent. However, the department plans to re-evaluate the performance of the audit resources after a two-year period to determine whether the increase in audit resources is justified.

The department estimates that the integrated information technology program will save the department \$18 million annually due to improved revenue collection and improved ability to track fraudulent activities. Furthermore, the department estimates that it will save the industry over \$20 million due to the increased convenience of an e-government interface and by shortening the "float" time that it takes the department to reimburse processors.

LAO Recommendation. In their analysis of the 2006-07 Budget, the LAO has raised concerns that recycling rates below target have resulted in a swelling fund balance within the program. Currently, the Beverage Container Recycling Fund is expected to carry an overall fund balance of \$429 million. The department has had a large surplus balance over the last several years and, beginning in 2002-03, about \$325 million total was loaned to the General Fund to address the budget problem. The majority of these loans require repayment by 2008-09. Repayment of these loans will add further to the growing balance. In their analysis, the LAO has proposed various options the Legislature could use to address this problem, including:

- Increasing the California Redemption Value (CRV) to increase recycling rates.
- Expanding consumer education programs.
- Increasing Convenience Zone handling payments or expanding entities eligible for payments.
- Increasing grants to community organizations and local governments to encourage increased recycling.
- Increasing market development grants.
- Increasing supplemental payments to curbside recyclers.
- Reducing the flow of revenues into the Fund by suspending payments made by beverage container distributors into the fund.

The LAO recommends that the Legislature request that the department prepare a supplemental report evaluating the cost effectiveness of options to decrease the residual balance in the Beverage Container Recycling Fund, including the options listed above.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget proposal to augment enforcement resources.
- Approve the Finance Letter proposal to fund the integrated information technology project.
- Approve the supplemental report language recommended by the LAO.

- Request that staff, the department, the LAO, and DOF work on a one-time project to increase grants to the California Conservation Corps and local conservation corps to increase recycling activities.

4. Division of Oil, Gas, and Geothermal Resources

Background. The Division of Oil, Gas, and Geothermal Resources ensures the safe exploration and development of hydrocarbon and geothermal resources. The division ensures that operators use sound engineering practices to protect life, health, property, and natural resources. The division oversees all operations related to mineral extraction, from drilling to the plugging of abandoned wells.

Governor's Budget and Finance Letter. The Governor's budget proposes \$354,000 from the Oil, Gas, and Geothermal Administrative Fund to support four new positions to fill existing gaps in regulating geothermal resources in Northern California and oil and gas extraction in the San Joaquin Valley. These positions are funded by annual regulatory fees on the oil, gas, and geothermal industries.

The Finance Letter (dated March 30, 2006) proposes authorizing expenditure authority of \$1.5 million from the Acute Orphan Well Account established by recently enacted legislation (AB 1471, McCarthy). This account is funded by a one-time industry assessment (assessment expires 1/1/08) and will be made available only if the department needs to plug an abandoned orphan well that poses immediate danger to human health and safety. The department also allocates \$1 million from the Oil, Gas, and Geothermal Trust Fund to plug orphan wells. The new Acute Orphan Well Account will be used only after the department has expended the \$1 million from the Oil, Gas, and Geothermal Trust Fund.

Workload Justification. Since 2001, the Division of Oil, Gas, and Geothermal Resources has lost 17 positions. This has negatively impacted the department's ability to meet its statutory obligation to regulate the oil, gas, and geothermal industries. Last year, the department added four clerical staff to allow engineers to be out in the field inspecting the oil and gas facilities. The department's proposal this year is to add four new inspection staff to slowly replace some of the positions lost over the last several years.

The department currently has no field engineer to regulate geothermal energy production in the northern portion of California. This budget proposal adds one position to regulate these facilities. The Coalinga District (Fresno County) currently has three field staff to regulate 5,339 active wells. The budget proposal adds one position so that each person is responsible for regulating approximately 1,330 wells. The Bakersfield district (Kern County) currently has 12 field staff to regulate 64,145 active wells. The budget proposal adds two positions so that each person regulates about 4,580 active wells.

There is a large discrepancy between Fresno County and Kern County on the number of wells each inspector has to regulate. The department indicates that the well-to-inspector metric is not the best indicator of regulatory effort since some districts have oil wells that are geographically concentrated, allowing for a more efficient inspection program. The department indicates that, in

Kern County, the wells are grouped into fields, which make them easier to regulate. Furthermore, the department indicates that it regulates wells that are closer to urban areas more often because of concerns related to health and safety. Some of the wells in Kern and Fresno are inspected only every two years because of relatively low human health and safety risks.

Staff Comments. Staff is concerned that the reduced level of regulatory presence in Kern County, the largest oil producing county in the state, has resulted in diminished protection of the state's natural resources. Kern County has significant groundwater supplies that are critical to meeting the state's water supply needs and significant populations of threatened and endangered species in and around the oil wells that are at risk of contamination. Furthermore, oil and gas prices are currently at historic levels and it is likely that additional wells will come on line, further increasing the department's workload. Given this, staff finds that additional regulatory staff in Kern County is warranted.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Adopt the budget and Finance Letter proposals.
- Approve an augmentation of \$177,000 to fund two additional inspectors for Kern County from the Oil, Gas, and Geothermal Administrative Fund.

5. Surface Mining and Reclamation Act

Background. The department's Office of Mine Reclamation provides expertise and advice to lead agencies and operators to implement the Surface Mining and Reclamation Act (SMARA). This act sets forth provisions to promote the use and development of mineral resources consistent with sound conservation practices, and promotes effective mine land reclamation to prevent adverse impacts.

The State Mining and Geology Board operates within the DOC, and serves as a regulatory, policy and appeals body representing the state's interest in geology, geologic and seismologic hazards, conservation of mineral resources, and reclamation following surface mining activities. The board is the main regulatory agent in adopting regulations for SMARA.

April Letter. The April Letter (dated March 30, 2006) submitted by the administration proposes \$561,000 from the SMARA Account to fund two 2-year limited-term positions as well as contracts to accelerate efforts to inventory abandoned mines on state-owned lands.

Workload Justification. There are approximately 47,000 abandoned mines statewide. Many of these sites are dangerous and may be causing significant water quality problems. For example, the Department of Parks and Recreation was recently sued due to the contaminated run-off from the Empire Mine State Historic Park. The department indicates that more information is needed on the nearly 1,400 abandoned mine sites that have been located on state properties so that the department can prioritize the workload associated with remediation of these sites. Because these sites are located on state-owned property, they are a potential liability to California.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget proposal.

- Request staff, the department, LAO and DOF to evaluate options for augmenting the department's remediation of abandoned mines that pose a health and safety risk to Californians.

6. Other Budget Proposals

Governor's Budget. The Governor's budget contains the following other proposals:

- **Information Technology Upgrades.** The budget proposes \$537,000 annually for the next three years for lifecycle upgrades to the department's network computing infrastructure. This proposal is funded by various funds at the department (\$268,000 from the Beverage Container Recycling Fund; \$161,000 from the Oil, Gas, and Geothermal Administrative Fund; \$54,000 from the Surface Mining and Reclamation Account; and \$54,000 from the Mine Reclamation Account).
- **Geologic and Seismic Hazard Review for School Construction.** The budget proposes \$450,000 in reimbursements from the Division of State Architect within the Department of General Services to support six permanent positions to complete reviews of geologic and seismic hazard reports for school construction.

Workload Justification. The department indicates that the funding provided for the information technology upgrades will allow the department to complete a four-year "refresh" project of its information technology infrastructure that will extend the life of its existing equipment.

The department indicates that the number of reviews requested by the Division of the State Architect has increased significantly over the last few years. The Department of Finance has already allowed the department to establish six positions administratively in the current year to deal with the increased workload. Delays were experienced in the prior year because of a lack of staffing at the department for geologic and seismic hazard reviews for new school construction.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposals.

3460 Colorado River Board

Background. The Colorado River Board (CRB) of California was established in 1937 by State statute to protect California's rights and interests in the resources provided by the Colorado River and to represent California in discussions and negotiations regarding the Colorado River and its management.

Governor's Budget. The Governor's budget proposes a small increase in funding for CRB. The CRB is funded entirely by reimbursements from local water districts.

Summary of Expenditures				
(dollars in thousands)	2005-06	2006-07	\$ Change	% Change
Type of Expenditure				
State Operations	\$1,253	\$1,393	\$140	11.2
Total	\$1,253	\$1,393	\$140	11.2
<i>Budget Act Total</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0.0</i>
Reimbursements	1,253	1,393	140	11.2
Total	\$1,253	\$1,393	\$140	11.2

1. Lower Colorado River Multi-Species Conservation Program—Informational Issue

Background. The board is involved in implementing the Lower Colorado River Multi-Species Conservation Program, which is one of the largest endangered species and habitat conservation plans to be adopted in the United States. This program was initiated in April 2005 and will lead to the restoration and maintenance of over 8,000 acres of native riparian, wetland, and aquatic habitats along the Lower Colorado River from Lake Mead to the Mexican border. This conservation program will allow the state to divert 4.4 million acre feet (California's full entitlement) from the Colorado River.

The conservation program ensures that the long-term needs of the federal and state endangered species act are met and maintained over the 50 year period of the program. The total cost of the program is estimated to be \$626 million. Approximately half of the funding will be provided by federal parties and the remaining half of the funding will be from non-federal parties. California parties will fund 50 percent of the non-federal share with the remaining 50 percent being funded equally by Nevada and Arizona parties. No state funding is proposed to support this program.

Update. Since implementation began, nearly three thousand acres of private lands have been acquired for habitat restoration in both Arizona and California. The U.S. Bureau of Reclamation has also initiated native habitat restoration activities on the Cibola Valley Conservation Area in Arizona, and on the Palo Verde Ecological Reserve lands in California just north of Blythe, California.

U.S. Bureau of Reclamation's Fiscal Year 2006 Work Plan commits over \$12 million to the conservation program for implementation activities through the year. Of the funds, over \$4 million is directed to habitat restoration, \$2.4 million for monitoring, \$1.7 million for species research activities, and just over \$1 million for native fish augmentation. The remaining funds are directed at habitat maintenance, adaptive management, and program administration.

2. Technical Positions

Governor's Budget. The Governor's budget proposes \$132,000 from reimbursement funds to re-establish two positions that were eliminated when the board was still supported by the General Fund. The positions proposed for funding are one senior hydraulic engineer and one office technician.

Workload Justification. The board indicates these positions are needed to restore positions that were eliminated earlier in this decade. The engineer position supports important analysis and investigations related to reservoir and river operations on the Colorado River. This analysis supports California's position in negotiations with the federal government and other state agencies. This additional position is needed to augment the three other engineers at the board that work on these issues in order to ensure that analysis is done in a timely manner. The office technician is also needed to ensure overall efficiency of the board's office. Currently, the board has only one office technician to support its office.

Staff Recommendation. Staff recommends that the Subcommittee adopt the budget proposal.

3940 State Water Resources Control Board

1. Water Rights Program

Background. The board is responsible for regulating a number of surface water rights, including issuing new water rights, approving changes to existing rights, and enforcing existing rights. In 2003, legislation was enacted to implement water rights fees to shift funding for the board's water rights program from the General Fund to fees. The new fees are assessed annually on parties applying for or holding water rights that are under the jurisdiction of the SWRCB.

The water rights program was reduced by approximately \$3.3 million (about 30 percent) in 2002-03. The reductions to the water rights program have increased an already existing backlog of water rights applications pending at the board. This backlog has been further exacerbated by the new fee program given the extra staff time required to address issues related to fee collection.

Governor's Budget. The Governor's Budget includes \$3.6 million in special funds to improve the efficiency of the water rights program in processing water rights applications. The funds will support six new positions (\$669,000) to aid in reducing the current backlog of water rights applications and change petitions.

The remaining funding (\$2.9 million) will be used to fund a one-time investment in information technology upgrades to the board's water rights database management and tracking system. Funding for the database management and tracking system will be provided through a loan from the Underground Storage Tank Fund that will be paid back over a 5-year period in order to minimize increases to the water rights fees. This financing arrangement adds approximately \$400,000 to the total cost of the project.

Workload Justification. The six additional positions will enable the board to process about 25 more water rights applications annually. The current backlog of pending petitions and applications for water rights is nearly 1,200, and this will provide a marginal improvement to the program.

Furthermore, the board's current water rights database tracking system is antiquated and does not allow the board to easily comply with new mandates that require the board to enable the public to track water rights applications on the Internet. Furthermore, the current system does not do a good job of supporting the board in tracking and collecting water rights fees. A new system will be designed to comply with the new mandates and improve the efficiency of the department, thereby freeing up additional staff resources to process water rights applications. The board has completed the necessary feasibility study report.

Audit of Water Rights Program. The Bureau of State Audits (BSA) recently completed an audit on the board's Water Rights program. This audit found that a sampling of the board's water rights permit data had many errors. This data is the basis for setting water rights fees, which are based on the amount of water diverted by the permit holder. The board indicates that it plans to fix the errors found in the data sampling reviewed by BSA. The board also plans to

review and update other key water rights permits to ensure that they are correct. However, the LAO finds that the board does not have plans to review all of the permits in its system to ensure that the data that will be input into the new computer system will be accurate. Therefore, the LAO finds that the board may be charging fees that are based on erroneous and out of date information. The board indicates that, given existing budgetary resources, it will not be able to complete a comprehensive review of all of the records in its system to determine if they are correct.

Staff Recommendation. Staff recommends the Subcommittee take the following actions:

- Approve \$669,000 and six new positions to process water rights permit applications.
- Approve a \$2.9 million loan for information technology upgrades.
- Request that staff, DOF, the LAO, and the board evaluate options for adding additional funding to research and correct errors in the water rights permit database.

2. Bond-Funded Grant Programs

Background. The board implements several bond programs, including bond programs that support the CALFED program. Concerns have been raised over the last few years regarding the length of time it takes the board to award grants and contracts. The board has taken several actions to improve the efficiency of its bond program and to improve communication with potential applicants for bond monies. This has improved the board's bond program.

Governor's Budget. The Governor's budget proposes allocating bond monies to the following programs:

- **Groundwater Monitoring.** The budget proposes \$10 million from Proposition 50 bond funds to support the board's groundwater monitoring program.
- **Integrated Regional Water Management.** The budget proposes \$20 million from Proposition 50 bond funds to fund Integrated Regional Water Management grants.
- **Water Use Efficiency.** The budget proposes \$950,000 from Proposition 50 bond funds for grants to implement water recycling projects.
- **Watershed Program.** The budget proposes \$2.7 million from Proposition 13 bond funds for watershed restoration grants.
- **Non-Point Source Pollution.** The budget proposes \$4.7 million in Proposition 13 bond funds for non-coastal non-point source pollution grants. The budget also proposes \$1.5 million in Proposition 13 bond funds for coastal non-point source pollution grants.

The budget also proposes additional bond funding (around \$17 million) to support the CALFED program. (These funds will be considered as part of an overall CALFED package.) The budget also proposes to shift eight positions from the bond program to the Underground Storage Tank Program.

Workload Justification. The board indicates that the shift of eight positions from the bond program will result in a 10 percent reduction in staffing for the board's bond program. The board indicates that less than one-third of the bond funding allocated to the board remains

unallocated. Funding for some bond programs is completely committed and these positions are not needed at this time.

Staff Recommendation. Staff recommends that the Subcommittee adopt the board's non-CALFED bond proposals.

3. Underground Storage Tank Cleanup Fund Program

Governor's Budget. The Governor's budget proposes to shift eight positions that currently exist in the board's bond program to the Underground Storage Tank Cleanup Fund program. The budget also requests a one-time increase of \$10 million in expenditure authority of reverted funds to accelerate distribution of cleanup funds.

Previous Subcommittee Direction. At the meeting of Senate Budget Subcommittee #2 on April 3, 2006 the Subcommittee held open the proposal to redirect positions from the board's bond program and requested additional information supporting this proposal.

The Subcommittee approved the one-time \$10 million increase in Underground Storage Tank Cleanup Funds to pay additional claims.

Workload Justification. The board indicates that the payment processing time for this program has grown to 98 days. Current law requires the board to make payments within 60 days of receipt. Furthermore, the board indicates that it has suspended pre-approvals of corrective action costs, which is an important process for small businesses. Staff finds that the Legislature approved 9.5 new positions for this program in the current year to meet increased workload. However, additional workload, associated with implementing legislation (AB 1906, Lowenthal) enacted in 2004, has further increased the board's need for additional positions. This legislation will result in an additional \$33 million annually for the Underground Storage Tank Cleanup Fund program and requires the board to create a new program that funds cleanup of sites where there is no identifiable responsible party.

Staff Recommendation. Staff recommends that the Subcommittee adopt the Governor's proposal to shift eight positions from the bond program to the Underground Storage Tank Cleanup Fund program.

3. Irrigated Agricultural Waivers Program

Background. Historically, the regional boards have regulated runoff from agriculture under conditional waivers. Early on, these waivers contained few conditions and were not widely enforced. Legislation (SB 390, Alpert), enacted in 1999, required the regional boards to review and renew their conditional waivers or replace them with the more stringent waste discharge requirements, if appropriate, given water quality impacts. The regional boards adopted new conditional waivers for agricultural dischargers, under what is known as the Irrigated Agricultural Waivers Program. Under this program, individual growers or coalitions of growers are required to monitor water quality in the water bodies around their fields. If monitoring

reveals that discharges from agricultural lands are contributing to water quality levels that exceed specific standards, the regional board may require the individual grower or coalition to implement a plan to reduce the impacts on water quality.

Governor's Budget. The board's base budget contains \$1.9 million and 22 positions to implement the Irrigated Agricultural Waivers Program.

LAO Recommendation. The LAO finds that low compliance with state regulatory requirements by growers has limited the Irrigated Agricultural Waivers Program's effectiveness. The board estimates that only 40 percent of the nearly 10 million acres of irrigated agricultural lands statewide are in compliance. However, because current law does not require individual landowners to report to the board, it is difficult for the board to determine which landowners are in compliance. In order to increase compliance, the LAO recommends that legislation be enacted to require: (1) that coalitions provide their membership lists to the regional board as a condition of the regional board enrolling each coalition in the agricultural waivers program, and (2) that coalitions make their membership list public.

Legislation (SB 923, Sher), enacted in 2003, requires this program to be supported by fees and the board's base budget includes \$1.9 million in fees based on a fee schedule enacted in 2005. However, because of the low compliance rate, the LAO finds that actual fee collections may be significantly less than what is budgeted. Therefore, in order to fund the program at its current level, fees from other waste dischargers are used to support the Irrigated Agricultural Waivers Program. The board indicates that it plans to revise its fee schedule in order to cover the entire cost of the current program. The LAO recommends that the board report on its plans to make this program self supporting.

Update. The board indicates that it continues to work closely with coalition groups to determine which landowners are complying with the Irrigated Agricultural Waivers Program. The board issued an executive order in August of 2005 requesting the submittal of membership documents. The board reports that four coalition groups have submitted complete sets of membership information. The board also reports that it expects to receive membership information from two other coalitions shortly. However, two other coalition groups have not yet submitted membership information and one coalition has been dissolved.

Staff Comments. Staff finds that the board is making progress in improving compliance with its Irrigated Agricultural Waivers Program. However, more should be done to enroll landowners and increase compliance with the program. Discharge from irrigated agriculture continues to be a serious problem for some water bodies in the state, including the San Francisco Bay-Delta. Recent reports indicate that pyretherins, which is the active ingredient in pesticides, are contributing to the decline of the smelt population in the Delta. Some of the pyretherins found in the water system enter through runoff from agricultural lands.

Staff Recommendation. Staff recommends that the Subcommittee request staff to develop a trailer bill in consultation with DOF, LAO, and the board that would improve compliance rates in the Irrigated Agricultural Waivers Program.

4. Other Budget Proposals

Governor's Budget. The Governor's budget also proposes funding for the following budget proposals:

- **Lake Tahoe TMDL.** The budget proposes \$64,000 in federal funds to support one 1-year limited-term position to complete implementation of the Lake Tahoe TMDL by 2008.
- **San Diego Transportation Projects.** The budget proposes \$85,000 in reimbursements to support one 2-year limited-term position to conduct and follow up on environmental reviews for transportation projects in San Diego.

Workload Justification. Two federal grants have been granted to the Lake Tahoe TMDL process totaling \$2.5 million. The board needs one position to coordinate the expenditure of these grant monies in order to explore new management strategies to reduce pollutants and to develop tools to track progress and performance of individual programs.

San Diego County currently has ten major transportation projects that are in various stages. The San Diego Association of Governments (SANDAG) is requesting that the board participate in the planning process for these transportation projects so that concerns regarding storm water pollution can be incorporated in the planning process. Incorporating features that deal with storm water pollution prevention during the planning process for transportation projects has the potential to save significant costs in reducing pollution from storm water.

Staff Recommendation. Staff recommends that the Subcommittee approve these budget proposals.

3860 Department of Water Resources

Background. The Department of Water Resources (DWR) protects and manages California's water resources. In this capacity, the department maintains the State Water Resources Development System, including the State Water Project. The department also maintains public safety and prevents damage through flood control operations, supervision of dams, and water projects. The department is also a major implementing agency for the CALFED Bay-Delta Program, which is putting in place a long-term solution to water supply reliability, water quality, flood control, and fish and wildlife problems in the San Francisco Bay-Delta.

Additionally, the department's California Energy Resources Scheduling (CERS) division manages billions of dollars of long-term electricity contracts. The CERS division was created in 2001 during the state's energy crisis to procure electricity on behalf of the state's three largest investor-owned utilities (IOUs). The CERS division continues to be financially responsible for the long-term contracts entered into by the department. (Funding for the contracts comes from ratepayer-supported bonds.) However, the IOUs manage receipt and delivery of the energy procured by the contracts. (More on the CERS division of DWR is included in the Energy and Utilities section of this agenda.)

Governor's Budget. The Governor's Budget proposes \$445 million to support DWR in the budget year. This is 14 percent less than estimated expenditures in the current year due to a reduction in the amount of resources bond funds available for appropriation. General Fund support for the department is proposed to increase by \$17 million to fund increases to the department's flood management activities and the lining of the All-American and Coachella canals.

Summary of Expenditures (dollars in thousands)	2005-06	2006-07	\$ Change	% Change
Type of Expenditure				
California Water Plan	\$283,401	\$251,575	-\$31,826	-11.2
State Water Project Infrastructure	808,972	800,060	-8,912	-1.1
Public Safety and Prevention of Damage	216,458	152,348	-64,110	-29.6
Services	7,301	8,729	1,428	19.6
California Energy Resources Scheduling	5,275,449	5,036,366	-239,083	-4.5
Capital Outlay	205,508	207,995	2,487	1.2
Administration	63,700	63,700	0	0.0
<i>less distributed administration</i>	<i>-63,700</i>	<i>-63,700</i>	<i>0</i>	<i>0.0</i>
Loan Repayment Program	-4,013	-4,013	0	0.0
Total	\$6,793,076	\$6,453,060	-\$340,016	-5.0
Funding Source				
General Fund	\$230,233	\$247,252	\$17,019	7.4
Special Funds	10,313	12,068	1,755	17.0
Bond Funds	274,810	185,528	-89,282	-32.5
<i>Budget Act Total</i>	<i>515,356</i>	<i>444,848</i>	<i>-70,508</i>	<i>-13.7</i>
Federal Trust Fund	12,842	12,546	-296	-2.3
State Water Project Funds	948,614	923,155	-25,459	-2.7
DWR Electric Power Fund	5,275,449	5,036,366	-239,083	-4.5
Bosco-Keene Renewable Resources Investment Fund	20	-	-	-
Reimbursements	40,795	36,145	-4,650	-11.4
Total	\$6,793,076	\$6,453,060	-\$340,016	-5.0

1. State of Emergency

Background. On February 24, 2006, the Governor issued a State of Emergency for the state's levee system, finding that people and property were in extreme peril due to the condition of the California levee system. The proclamation identified 24 critical erosion sites on project levees in the Sacramento River Flood Control system that need to be repaired before catastrophic failure occurs. The proclamation also indicated that DWR would continue to work on identifying other sites to determine if other repairs are needed and directed all state agencies to alleviate the

emergency in accordance with the State Emergency Plan. The Governor then sent a letter to the President requesting that a federal state of emergency be declared for the levee system.

On March 6, 2006, the Governor issued Executive Order S-01-06 directing the DWR to develop and implement a plan to accomplish critical levee erosion repairs this year at the 24 critical levee erosion sites in the Sacramento River Flood Control system.

Governor's Budget. The Governor's budget does not contain any funding for the State of Emergency as it was declared after the budget was released. However, \$103.4 million in General Fund monies was provided to DWR to carry out the directives contained in the March 6 Executive Order as well as additional flood control activities. These funds were received by the department on March 22, 2006 and are being allocated from the General Fund's Special Fund for Economic Uncertainties (also known as the General Fund reserve).

Flood Fighting and Advance Measures. Since the State of Emergency was declared, the state has had the second wettest April on record and flow levels have been extremely high in the state's river systems, especially in the San Joaquin River system. The department and other agencies, including the Department of Forestry and Fire Protection, have been involved in flood fighting and advance measures to help to prevent flooding. So far, the department indicates that it has expended about \$7 million on flood fighting activities and advance measures, mainly on the San Joaquin River system.

Critical Levee Erosion Repair Project. The department is currently preparing plans to make repairs to 29 critical levee erosion sites in the Sacramento River Flood Control system, including five sites identified by the U.S. Army Corps of Engineers that should be added to the original list of 24 critical erosion sites. A contract was awarded to the URS Corporation on March 9, 2006 for engineering and environmental work for the majority of these repairs. The department indicates that it will likely cost about \$150 million to make all of the repairs, which is \$50 million more than what has been earmarked by the Governor for this activity.

On March 31, 2006, the U.S. Army Corps of Engineers committed to repair 10 of the 24 sites listed as critical and indicated that five other sites should be added to the critical erosion sites list. To date, the federal government has not issued a federal emergency declaration and additional federal funding to repair the critical erosion sites has not been provided. Therefore, on April 6, 2006, the DWR announced that it would provide \$30 million in state funds to the federal government for the U.S. Army Corps of Engineers to repair 10 of the 29 erosion sites.

Federal Funding. Historically, the U.S. Army Corps of Engineers does the majority of the erosion repairs on levees in the Sacramento River Flood Control system. The Executive Order breaks with this tradition by directing DWR to take over this role to direct erosion repairs with or without the federal government. Historically, the federal government would cover 75 percent of the costs of an erosion repair. The state indicates that it continues to seek a full cost share from the federal government and hopes that the \$30 million advanced to the U.S. Army Corps of Engineers will count towards the state's cost share. However, it is not certain that the federal government will recognize this funding arrangement nor is it certain that the federal government

will ultimately participate financially in the other levee repairs being made solely by the state under the Executive Order.

Bond Funding. The Legislature and the Governor continue to work on an infrastructure bond package to put before the voters in November 2006. It is likely that some funding in the ultimate package will be provided for critical erosion repairs in the Sacramento River flood control system. However, this money would not be available for appropriation until the 2007-08 budget, which is too late for completing the repairs as directed by the Governor's Executive Order. However, as additional sites are identified and if some repairs are delayed, they could be funded by bond funding.

Environmental Reviews. Under the State of Emergency issued by the Governor, the erosion repairs are not required to comply with the California Environmental Quality Act (CEQA), which specifically exempts actions to prevent or mitigate an emergency. However, the department plans to incorporate environmental features into each erosion repair to mitigate the impacts of these repairs. For example, the department indicates that it plans to preserve rooted vegetation, including woody material to preserve fish habitat, and avoiding Valley Elderberry Longhorn Beetle Habitat in its repairs. The Governor is seeking expedited permitting from the federal government for the erosion repairs. However, federal law does not allow the President to unilaterally waive the Endangered Species Act even in emergency conditions. The Department has convened a Levee Repair Executive Oversight Committee to streamline coordination with federal and state agencies on permitting.

Staff Comments. Staff finds that it is critical for the state to move forward with erosion repairs to prevent catastrophic failures of the state's levee system. However, it is also important for the state to stay vigilant in pursuing federal funding for these expenditures that have historically been funded by the federal government.

Furthermore, it is imperative that the state improve its oversight of levee maintenance in order to reduce future costs associated with critical erosion repairs caused by deferred maintenance. Staff also recognizes that the department plans the use of setback levees for at least four of the critical sites. The department should be encouraged to use these features, where possible, in order to avoid costly repairs on sites that are likely to erode again.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the DWR prepare monthly reports to the Legislature on the amount of funding expended, to date, under the State of Emergency.
- Adopt supplemental report language that requests DWR to report to the Legislature by February 1, 2006, on the status of completing the 29 erosion repairs, including an accounting of state funds expended, federal funds received and projected to be received for work completed, local funds received and projected to be received for work completed, and additional appropriations needed to complete the repairs.

2. State Flood Management Activities

Background. The 2003 decision in *Paterno v. State of California* has made the state potentially liable for damages resulting from any levee failure within the state/federal flood control system in the Sacramento and San Joaquin River basins (the Central Valley). In 2005, the DWR completed a white paper to address many of the issues raised by the *Paterno* decision. The administration's paper identified the following problems with the current flood management system in the Central Valley:

- The current infrastructure is aging and there is a significant amount of deferred maintenance.
- Development is escalating in and around the floodplains.
- Fiscal resources to support maintenance and upgrades are declining.
- The *Paterno* decision has increased the state's potential liability in case of levee failure.

The paper recommended several strategies to address the problems identified in the report. These strategies include the following:

- Evaluate flood control system integrity, rehabilitate as needed, and improve maintenance.
- Create reliable funding sources for funding flood management activities.
- Improve floodplain mapping and outreach on flood risks.
- Reduce or shift the state's liability exposure.

In 2005, the Legislature approved \$9.4 million and 27 new positions to start implementing the first year of a three-year proposal to phase in additional funding to support the first three strategies listed above. This proposal included additional funding in the current year for the following activities:

- **Flood Project Maintenance.** This activity involves maintenance of the Central Valley flood control projects.
- **System Reevaluation and Rehabilitation.** This activity involves reevaluation and rehabilitation of the Central Valley flood control system to address current deficiencies in the system.
- **Emergency Response.** This activity involves increasing the department's ability to respond in case of a flooding emergency.
- **Floodplain Management.** This activity involves improving the department's floodplain mapping and programs that help local governments to comply with the federal National Flood Insurance Program.

To date, legislation to reduce and/or shift the state's liability exposure has not been implemented.

Governor's Budget. The Governor's Budget proposes \$20.7 million in General Fund monies for the second year of a three-year program to phase in additional funding to support the department's flood management activities. The majority of the funding supports flood management activities in the Central Valley. The proposed budget augmentations will fund the following activities:

- **Central Valley Flood Project Maintenance.** The budget includes \$13.3 million General Fund (\$2 million one-time) to support 14 new positions to augment maintenance of the Central Valley flood control projects. This includes: improving maintenance of

levees and flood control channels, improving the levee inspection program, legal support for floodway encroachment policies, sediment removal, convening a regulatory reform forum, erosion repairs, digitizing Reclamation Board files, levee crown and cross section surveys, digitizing encroachment permits, and making improvements to the state's maintenance yards.

Activity	On-going	One-Time	Positions
Sacramento River Flood Control Project-Maintenance	\$3,700		11.0
Sacramento River Flood Control Project-Equipment		\$1,225	
Levee Inspection Program	\$250		1.0
Levee Inspection Program-Computer Equipment		\$20	
Legal Encroachment Work	\$200		1.0
Sediment removal in the Sacramento River Flood Control Project	\$1,660		
Regulatory Compliance-Contracts with other agencies	\$900		
Regulatory Reform Forum		\$500	
Erosion repairs including land acquisition	\$4,000		
Reclamation Board file management system	\$375		1.0
Levee Crown and Cross-Section Surveys for non-standard slopes	\$250		
Phase 2 of digitizing and organizing encroachment permits		\$150	
Deferred Maintenance at maintenance yards		\$100	

- **System Reevaluation and Rehabilitation.** The budget includes \$2.1 million in General Fund monies (\$450,000 one-time) to support eight new positions to conduct geotechnical analysis of the levees and prepare several reports; including, the State Plan of Flood Control, System Status Report, and 80 reports on flood control activities of local agencies. Funds will also be used to repair Sacramento Bypass levees near an old Sacramento landfill that pose a hazardous waste risk.

Activity	On-going	One-Time	Positions
Geotechnical analysis and report preparation	\$1,660	\$200	8
Sacramento Bypass levee repair		\$250	

- **Emergency Response.** The budget includes \$2.3 million in General Fund monies (\$670,000 one-time) for emergency response to support nine new positions to augment resources for the Flood Operations Center for the Central Valley (the Center also supports the Eureka Flood Center) and implementation of the State Emergency Management System. Funding is also proposed to improve key flood forecasting data and improve data collection.

Activity	On-going	One-Time	Positions
Flood Operations Center Program–GIS and IT Support	\$400		2.0
Flood Operations Center Program–Computer Equipment		\$50	
Emergency Preparedness and Security Planning	\$230		1.0
Emergency Preparedness and Security Planning–IT and Vehicle		\$50	
Restore and expand flood forecasting stream gauges	\$150		1.0
Restore California Data Exchange Center data collection	\$200		1.0
Snowmelt runoff forecasting	\$640	\$570	4.0

- **Floodplain Management.** The budget includes \$3 million in General Fund monies to support one new position and to support contracts to update existing Federal Emergency Management Agency (FEMA) flood insurance rate maps as well as to develop new maps for unmapped stream reaches where urban development is anticipated.

Activity	On-going	One-Time	Positions
National Flood Insurance Program Mapping	\$2,270		1.0
Awareness Mapping throughout the state	\$700		

Workload Justification. The Governor is requesting 32 additional positions to support the department's flood management activities. The additional positions requested for flood project maintenance are backfilling reductions in staff to maintain the Sacramento River flood control project. Current law (Water Code §8361) requires the state to maintain certain flood control features. These positions will ensure adequate maintenance of these features. Since the state is responsible for maintaining these features, it is directly responsible for failures that may occur because of lack of maintenance. Additional positions are also requested to improve the levee inspection program. Since *Paterno*, the state also has liability for levees that are part of the state system of flood control, even if they are not directly maintained by the state.

Several studies have underscored the need for a system-wide evaluation of the Central Valley flood control system. The Governor requests additional positions to augment this activity. These positions will be used to oversee geotechnical analysis and prepare several reports that will provide critical information on the status of the current system.

Emergency response efforts at the department were cut back significantly due to budget reductions in the early part of this decade. The department proposes to restore nine positions to improve its ability to respond to flood emergencies. This includes improving the department's flood forecasting activities.

Floodplain mapping is an important tool to minimize development in flood prone areas. The Governor requests an additional program to accelerate mapping efforts in the Central Valley.

The Central Valley is one of the fastest growing areas of the state and many of the reaches of streams are not currently mapped under the National Flood Insurance Program.

Bond Funds. The majority of the ongoing funding requested as part of this proposal is for staff and to fund ongoing maintenance costs. Approximately \$6 million is proposed for erosion repairs and sediment removal annually. These activities are eligible to be funded by bond funds. However, some level of annual funding is needed to maintain the levees and flood control channels. A State of Emergency has been declared for the state's levee system because of the long history of inadequate maintenance on our levee system. Therefore, the ongoing General Fund monies proposed for erosion repairs and sediment removal is needed to avoid more costly repairs in the future.

LAO Recommendation. The LAO indicates that the state is currently facing a crisis in flood management. The LAO recommends approving the department's proposed flood management plan as a prudent initial step to begin addressing the state's obligation to provide adequate flood control. Furthermore, the LAO recommends a more appropriate allocation of the costs of increased flood protection to those that benefit from the DWR's flood management activities. These recommendations include the following:

- **Cost Sharing.** The LAO recommends that the Legislature consider establishing a Central Valley system-wide assessment so that the beneficiaries of state flood management efforts pay for a portion of the state's costs. The Governor's Growth Plan references support for the concept of a funding contribution from beneficiaries of the Central Valley flood control system, but does not propose a specific mechanism to accomplish this.
- **Land Use and Flood Risk.** The LAO recommends enacting a floodplain development fee which could be used to fund increased flood control measures necessary to protect new development in flood-prone areas. Alternatively, the LAO recommends that the state require local agencies to make a determination that new development has an adequate level of flood control, as they must currently do for water supply. Both of these recommendations improve the connection between land use and flood risk, which was one of the key problems identified in DWR's 2005 white paper.

Staff Comments. Staff finds that the department's budget proposal is a good first step toward properly maintaining the current flood infrastructure and responding to emergency conditions. However, more needs to be done to reduce flood risk to people and property and financial risk to the state. Staff finds that all responsible parties should help in reducing flood risk, including local governments which are making land use decisions that increase flood risk. Efforts to improve the connection between land use and flood risk are currently being pursued in policy bills.

Staff Recommendation. Staff recommends that the Subcommittee adopt the Governor's budget proposal for state flood management activities, including:

- Flood Project Maintenance (\$13.3 million).
- System Reevaluation and Rehabilitation (\$2.1 million).
- Emergency Response (\$2.3 million).
- Floodplain Management (\$3 million).

3. Central Valley Flood Control Projects – Capital Outlay

Background. In addition to ongoing maintenance and erosion repairs, the DWR oversees funding for projects to upgrade and increase the design capacity of flood control features. These projects are treated as capital outlay projects and are generally built by the U.S. Army Corps of Engineers with a cost-share from state and local governments.

Governor's Budget. The Governor's Budget proposes \$41.3 million (\$31.4 million General Fund) for various capital outlay flood control projects in the Central Valley. Funding is allocated for the following projects:

- **Folsom Dam Modifications.** The budget includes \$19.5 million (\$14.4 million General Fund and \$5 million Reimbursements) for modifications to the raising of Folsom Dam to improve flood protection along the American River. (Future state funding of \$24.6 million will be needed for this project starting in 2007-08.)
- **American River Common Features Project.** The budget includes \$9.2 million (\$6.4 million General Fund and \$2.7 million Reimbursements) to fund the Common Features project, which is the first increment of a comprehensive flood control plan for Sacramento. (Future state funding of \$25.7 million will be needed for this project starting in 2007-08.)
- **Folsom Dam - Bridge Element.** The budget includes \$6.8 million (\$4.8 million GF and \$2 million Reimbursements) for the construction of a new bridge crossing the American River. (Future state funding of \$497,000 will be needed for this project in 2007-08.)
- **Sacramento River Bank Protection Project.** The budget includes \$4.9 million in General Fund monies to prepare new environmental compliance documents for Phase 2 of this project, acquire land for setback levees and to fulfill existing mitigation requirements, repair critical erosion sites, and assist the Army Corps of Engineers in obtaining federal authorization for Phase 3 of the project.
- **American River Natomas Features Project.** The budget includes \$496,000 to reimburse the Sacramento Area Flood Control Association for Phase 1A of this project. (Future state funding of \$5.4 million for phases 1B and 2 of this project will be needed in 2007-08.)
- **Upper Sacramento River Levee Restoration Project.** The budget includes \$484,000 (\$357,000 General Fund and \$127,000 Reimbursements) to restore levees between Knights Landing and the Colusa Weir. This appropriation is needed to complete this project.

Finance Letter. The Finance Letter, dated March 30, 2006, requests the following amendments to the budget to reappropriate capital outlay funds that were allocated in prior budget years and not expended for specific flood control projects. The projects include the following:

- **Marysville/Yuba City Levee Reconstruction Project.** The budget proposes to reappropriate \$563,615 in General Fund monies and \$361,539 in reimbursement funds. This funding is needed for remaining land acquisitions to access the project and to complete project turnover to the local agencies. These funds were originally appropriated in 2003.

- **Magpie Creek Flood Control Project.** The budget proposes to reappropriate \$1.5 million in Proposition 13 bond funds and \$533,000 in reimbursement funds. This funding is needed to fund land acquisitions, relocations and other activities for the Magpie Creek Flood Control Project in the City of Sacramento. This project was delayed because the local sponsor chose to pursue a redesign of the original project with the U.S. Army Corps of Engineers. These funds were originally appropriated in 2000.
- **Tisdale Bridge Replacement.** The budget proposes to reappropriate \$1.5 million in General Fund monies. This funding is needed to meet the state's obligation to pay a portion of the non-federal project costs. This project has been delayed by construction cost escalations and real estate acquisitions. However, the federal government has agreed to pick up the bulk of the cost overruns and recent discussions appear to have resolved outstanding issues related to real estate acquisition. These funds were originally appropriated in 1998.
- **Yuba River Basin Flood Control Project.** The budget proposes to reappropriate \$3 million in General Fund monies and \$1.4 million in reimbursement funds. This funding is needed to fund land acquisitions, relocations, and other activities for a project to increase flood protection for Marysville, Linda, Olivehurst, Arboga, and other rural areas in Yuba County. This project has been delayed by the U.S. Army Corps of Engineers after they determined that the original scope of the projects would not address under-seepage issues throughout the Sacramento River flood control system. The Corps is currently preparing a general reevaluation report to address this problem, which has delayed the expenditure of funds. These funds were originally appropriated in 2000.
- **South Sacramento County Streams Project.** The budget proposes to reappropriate \$1.5 million in Proposition 13 bond funds and \$3 million in reimbursement funds. This funding is needed to fund land acquisitions, relocations, construction, and staff activities for a project to increase the flood protection for South Sacramento County and the City of Sacramento, including the Sacramento Regional Wastewater Treatment Plant. This project has been delayed due to a Corps re-analysis of the hydrology and hydraulic model for the project. These funds were originally appropriated in 2000.

Bond Funds. Most of the capital outlay projects could be appropriately funded by bond funds. The department indicates that the Governor's Growth Plan (bond) considered funding the department's Five-Year Infrastructure Report. However, if expenditures are required beyond the five-year planning horizon, they were not included in the bond proposal. Nevertheless, if a bond is passed by the voters in November 2006, these funds will not be available for appropriation until 2007-08. It is not clear to staff what projects, if any, could be delayed without impact to federal funding commitments and overall costs to the project.

LAO Recommendation. The LAO indicates that the state is currently facing a crisis in flood management. The LAO recommends approving the department's proposed flood management plan as a prudent initial step to begin addressing the state's obligation to provide adequate flood control.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget proposal to fund flood capital outlay projects.
- Approve the Finance Letter to reappropriate flood capital outlay projects.

4. *Paterno* Lawsuit Settlement—Informational Item

Background. The *Paterno v. State of California* lawsuit stems from a flood on the Yuba River in 1986. In February of that year, a 150 foot gap opened in the levee, allowing approximately 20,000 acre feet of water to flood 7,000 acres of land in the communities of Linda and Olivehurst, in Yuba County. As a result, hundreds of homes and a shopping center in the area were flooded. Subsequently, approximately 2,600 affected parties filed suit against the local reclamation district and the state. In 2001, a trial court ruled in favor of the state. However, in 2003 the California Court of Appeal ruled that the state was liable (and that the local reclamation district was not) and sent the case back to the trial court to award damages. The state appealed to the California Supreme Court which refused to hear the case.

The California Court of Appeal found the state liable for inverse condemnation arising from the failure to properly maintain the levee that failed. This decision has opened the state up to enormous financial liability for flood damages elsewhere in the system.

This lawsuit will cost the state over \$585 million in General Fund monies. The 2005-06 Budget Act allocated \$103 million in General Fund monies to cover a portion of the liability. The remainder of the liability is being financed by a 10-year financing arrangement with Merrill-Lynch. Financing the debt will cost the state an additional \$125 million in interest over the next ten years.

Governor's Budget. The budget contains about \$63 million in General Fund monies to cover the debt service payment to Merrill-Lynch in the budget year.

5. State Reclamation Board

Background. The State Reclamation Board (SRB) is responsible for flood management in the Central Valley (along the Sacramento and San Joaquin rivers). The Central Valley has the most extensive flood management system in the state since the entire valley floor regularly flooded before its development. The SRB administers a permit and enforcement program for development within the Central Valley's floodplains. The board is composed of seven members, appointed by the Governor, to serve four year terms. These appointments are not confirmed by the Senate.

Governor's Budget. The Governor's base budget contains \$583,191 in General Fund monies to support the State Reclamation Board.

Plumas Lakes Development. In 2005, the State Reclamation Board agreed to \$60 million in levee improvements along the Feather and Yuba rivers to allow Yuba County to build 1,500 new homes on land that has flooded twice in the last 20 years. On April 21, 2006 the State Reclamation Board, made up of an entirely new slate of board members appointed by the Governor, reversed the 2005 decision allowing for unlimited development before any levee improvements are made. Plans call for as many as 12,000 new homes in the area. The board

staff recommended against lifting the housing ban, but the board voted 4-1 despite this recommendation. This decision directly increases the state's potential liability under the *Paterno* decision and also places persons and property in danger of flooding.

Reclamation Board Reform. Staff finds that decisions made by the State Reclamation Board have a direct impact on the state budget. The recent Plumas Lakes decision and others indicate that the board is unwilling to make tough decisions to reduce the flood risks in the Central Valley and protect people and property from flood damage. In order to reduce flood risks in the Central Valley, the planning and quality control functions of the Reclamation Board, or its successor, must be restored by:

- Strengthening the independence and resource capacity of the Reclamation Board.
- Clarifying, and in some cases strengthening, the Reclamation Board's powers and duties.
- Clarifying the relationship between the Reclamation Board, Department of Water Resources (DWR), Federal Agencies, and local flood management agencies.

Staff Recommendation. Staff recommends that the Subcommittee delete funding for the State Reclamation Board.

4. Yuba Feather Flood Protection Program

Background. The Yuba Feather Flood Protection Program was created in the Proposition 13 bond fund to address the serious threat to life and property along the Yuba/Feather River system. The bond allocated \$90 million for this program (\$20 million is being implemented by the Department of Fish and Game for environment and wildlife mitigation projects). Approximately \$2.6 million, of the \$70 million being implemented by DWR, was set aside to reimburse local entities in Sutter County for their local share of cost-shared projects.

The DWR has allocated approximately \$52.9 million of the funds to flood control projects as part of the Yuba Feather Flood Protection Program.

Finance Letter. The Finance Letter, dated March 30, 2006, proposes to revert \$2.5 million in unexpended Proposition 13 bond funds that were intended for a capital outlay project to construct a flood protection project for the Colusa Basin Drainage District. The construction of this project has been delayed because of concerns raised during CEQA review. Instead of pursuing the project for the Colusa Basin Drainage District, the DWR proposes to allocate \$2.5 million in Proposition 13 bond funds as local assistance to the Three Rivers Levee Improvement Authority to construct setback levees along the Bear River in Yuba County. These funds would allow the Three Rivers Levee Improvement Authority to expedite flood protection for the Plumas Lakes Development.

Staff Comments. Staff finds that a recent decision by the State Reclamation Board to allow for unlimited development before levee improvements are made will increase flood risk and financial risk to the state. As mentioned earlier, the state is currently paying a \$585 million settlement due to one small levee break and there is financial risk involved in large scale development in areas that are prone to flooding. Furthermore, it is unclear why the department no longer finds the project at Colusa Basin Drainage District a priority just because

environmental documentation has been delayed. Staff needs additional information about how decisions are being made to allocate state bond funding as part of the Yuba Feather Protection Program.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open and request that the department provide additional information on how priorities are set, and funding decisions made, in the Yuba Feather Protection Program.

8. Local Flood Control Subventions

Background. Outside the Central Valley flood control system, the state's role in flood management is generally limited to providing local assistance funds to local governments for flood control projects. The state typically funds up to 70 percent of the non-federal share of the project. However, legislation (AB 1147, Honda) enacted in 2000 expanded the state's role in developing flood management projects. Under this legislation, the state will only provide a 50 percent cost share for local projects unless the project has multiple benefits, such as habitat conservation and water quality benefits.

The local government sponsoring the flood control project typically fronts the funding for the project and is reimbursed by the state at a later date. The state has not allocated funding for local flood control subventions in the last few budget years and currently owes \$238 million to locals. However, the liability is projected to grow to over \$815 million over the next ten years.

Governor's Budget. The Governor's budget does not allocate any new funding to pay for local flood control subventions. Furthermore, one position supports the entire local flood control subvention program, including implementation of provisions in AB 1147.

Bond Funds. Bond funding is an appropriate funding source for this activity since local flood control subventions fund capital projects. If a bond is passed by the voters in November 2006, these funds could be used to help pay down the state's arrearage that continues to accumulate.

LAO Recommendation. The LAO recommends that the Legislature consider improving the connection between land use planning and flood risk by tying flood control subvention funding to flood risk. This would make local agencies that approve risky development ineligible for flood control subvention funding from the state.

Napa River Flood Project. The DWR has received nearly \$50 million in claims from Napa County for the state's share of funding for a major flood project on the Napa River. So far, the department has not paid any of the claims owed to Napa County. Staff finds that Napa County may need \$10 million in the budget year in order to continue implementation of the Napa River flood project. The City of Napa suffered extensive flooding during January 2006 that might have been avoided had the project been fully implemented.

Staff Comments. Staff finds that the department currently has no plans to pay local governments the funding they are owed under the Local Flood Control Subventions Program. Furthermore, staff finds that the department is not implementing current law which requires

DWR to work with local governments outside of the Central Valley on projects that reduce flood risk and help achieve other benefits, such as water quality and ecosystem restoration. The flooding that occurred in Napa County, and elsewhere in January 2006, was an indication that flooding is not just a problem in the Central Valley. Numerous other areas of the state are prone to flooding and require technical support from DWR. The DWR is not currently able to provide this technical support. The DWR indicates that this program has been reduced due to budget reductions and that earlier in this decade it had six positions supporting the Local Flood Control Subventions Program.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that staff, the LAO, DOF and the department evaluate options for providing \$10 million to Napa County in the budget year to continue development of the Napa River flood project.
- Request staff, the LAO, DOF and the department to evaluate options for adding additional positions to the Local Flood Control Subventions Program so that the department can implement current law.

6. Other Bond Programs

Governor's Budget. The Governor's budget includes the following other budget proposals:

- **Flood Management.** The budget proposes allocating the remaining \$460,000 in Proposition 13 bond funds. These funds are allocated to continue the administration of local assistance grants awarded as part of the Flood Protection Corridor Program (\$350,000) and continue support for the National Flood Insurance Program Technical Assistance Program (\$110,000).
- **Urban Streams Restoration Program.** The budget proposes to revert \$132,000 in unused Proposition 13 bond funds to support one position to continue management of grants awarded by the Urban Streams Restoration Program.

Staff Recommendation. Staff recommends that the Subcommittee adopt these budget proposals.

9. All-American Canal Lining

Background. Legislation (SB 1765, Peace), enacted in 1998, provides \$235 million in General Fund monies as a continuous appropriation to the Colorado River Management Account. These funds are to reimburse local agencies for the lining of the All-American Canal and other projects that help the state live within its Colorado River water allocation. While not explicitly part of the 2003 Quantification Settlement Agreement, the allocation of these funds was part of the general agreement made between several Southern California water agencies and the state.

Governor's Budget. The Governor's Budget proposes \$84 million from General Fund monies to fund the lining of the All-American and Coachella Canals.

New LawsUIT. On April 18, 2006, a lawsuit was filed against the Imperial Irrigation District to stop the construction of the All-American Canal. A group called Protect Our Water and Environmental Rights claims that the project design presents a peril to humans and animals. The suit alleges that the canal does not include escape ridges, which are continuous steps that allow animals and humans trapped in the canal to climb out. The suit states that this feature was removed from the canal's original design and that this modification violates the California Environmental Quality Act. The lining project also faces another legal challenge in federal court in Las Vegas brought by a Mexican economic development group and two U.S. environmental groups alleging that the project would harm wildlife on both sides of the border by drying up wetlands fed by canal seepage.

Update on Coachella Canal. The Coachella Canal lining project is about 69 percent complete and is on schedule for operational flows to be diverted into the newly lined canal by December 2006. Thus far, the state has allocated \$80 million to fund this project and reimbursed the San Diego Water Authority (contractor for the Coachella Canal lining project) for about \$56 million, leaving \$24 million on deposit at DWR. The budget proposes an additional \$3.6 million in General Fund monies to complete the allocation for this project.

Update on All-American Canal. The All-American Canal lining project is scheduled to start construction by June 2006. Bids have been received and the project is expected to take 34 months to complete with projected completion in spring 2009. Thus far, the state has allocated \$53 million to fund this project and reimbursed the Imperial Irrigation District (contractor for the All-American Canal lining project) for about \$10 million, leaving \$43 million on deposit at DWR. The budget proposes allocating an additional \$77.5 million in General Fund monies to continue funding the project. The DWR estimates that if construction starts in June all of these funds will be expended in the budget year.

Bond Funding. Proposition 50 contains \$12.5 million in unexpended bond funds that could be used to fund the lining of the All-American Canal, thereby saving \$12.5 million in General Fund monies in the budget year. Shifting \$12.5 million of the funding for the All-American Canal from the General Fund to bond funds would not reduce the state's obligation to provide the \$32.5 million that is owed under current law to complete this project.

Staff Recommendation. Staff recommends that the Subcommittee hold this item open and request the department to provide additional information on the impact of the lawsuits on construction of the All-American Canal in the budget year.

CALFED Program

Background. The CALFED Bay-Delta Program (CALFED), a consortium of 12 state and 13 federal agencies, was created to address a number of interrelated water problems in the state's Bay-Delta region.

Governor's Budget. The Governor's Budget proposes \$250 million (\$26 million General Fund) for the state share of the CALFED Program. This is about \$75 million less than estimated expenditures in the current year due to a reduction in resources bond funds available for appropriation. General Fund support for the program is estimated to increase by nearly \$15 million in the budget year due to increases in funding for delta levees.

Staff Comments. This agenda only contains a high-level summary of the Governor's budget proposal and a discussion of selected CALFED issues. The remaining CALFED issues will be heard at a later date.

Summary of Expenditures (dollars in thousands)	2005-06	2006-07	\$ Change	% Change
Expenditures by Program Elements				
Ecosystem Restoration	\$162,155	\$32,349	-\$129,806	-80.1
Environmental Water Account	9,052	8,970	-82	-0.9
Water Use Efficiency	28,567	62,115	33,548	117.4
Water Transfers	-	-	-	-
Watershed	11,791	8,658	-3,133	-26.6
Water Quality	1,043	19,387	18,344	1758.8
Levees	19,164	18,513	-651	-3.4
Storage	8,778	8,612	-166	-1.9
Conveyance	34,398	66,629	32,231	93.7
Science	34,724	10,524	-24,200	-69.7
Water Supply Reliability	6,868	6,806	-62	-0.9
Oversight and Coordination	7,499	7,375	-124	-1.7
Total	\$324,039	\$249,938	-\$74,101	-22.9
Expenditures by Department				
Department of Water Resources	\$125,000	\$210,258	\$85,258	68.2
California Bay-Delta Authority	126,487	14,347	-112,140	-88.7
State Water Resources Control Board	1,634	19,189	17,555	1074.4
Department of Fish and Game	67,222	5,448	-61,774	-91.9
Department of Forestry and Fire Protection	154	159	5	3.2
Department of Conservation	3,330	324	-3,006	-90.3
Department of Health Services	125	125	0	0.0
San Francisco Bay Conservation Development Commission	88	88	0	0.0
Total	\$324,040	\$249,938	-\$74,102	-22.9
Expenditures by Fund Source				
General Fund	\$11,477	\$26,449	\$14,972	130.5
Proposition 204	29,025	1,575	-27,450	-94.6
Proposition 13	18,921	73,782	54,861	289.9
Proposition 50	232,689	105,847	-126,842	-54.5
State Water Project	29,705	39,015	9,310	31.3
Other State Funds	2,223	3,270	1,047	47.1
Total	\$324,040	\$249,938	-\$74,102	-22.9

1. CALFED 10-Year Action Plan—Informational Item

Background. In 2005, legislative concerns were expressed about the program's overall performance. In response, the Governor directed that a number of independent management, fiscal, and program reviews of CALFED be conducted. These reviews identified several problems with CALFED's current organizational structure and found that the program lacks clear goals and priorities to guide its decision making and hindering its ability to move forward.

As mentioned above, the Governor directed that a number of independent reviews of CALFED be conducted. Four separate reviews were conducted over the summer and fall, as follows:

- Little Hoover Commission -- review of CALFED governance.
- Department of Finance, Office of State Audits and Evaluations -- fiscal review of CALFED expenditures since inception and CALFED's expenditure tracking mechanisms.
- Department of Finance, Performance Review Unit -- program review of the implementation status of CALFED programs.
- The KPMG (a private consultancy firm) -- interview and survey of CALFED stakeholders.

The LAO finds common agreement among the reviews on the following three points:

- The current CALFED governance structure is not working well and is impeding the program's effectiveness. Responsibilities among CALFED implementing agencies are not clear and no one is in charge.
- The state's priorities for CALFED are not clear.
- Meaningful performance measures to track the program's progress, and hold the program accountable for outcomes, are lacking.

10-Year Action Plan. A new 10-year Action Plan Framework for the CALFED Bay-Delta Program was released on April 20, 2006. This plan recommends actions in the following areas:

- **Governance.** The Governor proposes to eliminate the Bay-Delta Authority and reestablish a policy group (called the CALFED Leadership Council) chaired by the Secretary for Resources and the federal lead appointed by the Secretary of the Interior. The policy group will include stakeholder representatives as decision makers. The plan also calls for establishing independent oversight of the CALFED program, including a comprehensive review of the program every seven years. A State Public Advisory Committee is also proposed to be the conduit through which public input can be channeled to program decision makers.
- **Program and Fiscal Management.** The Governor proposes to reorganize the Bay-Delta Authority staff to focus on strategic planning and implement new performance-based program management of the CALFED program. The plan also calls for standardizing fiscal management and tracking systems, developing a communications plan, and establishing science-based performance measures to allow for adaptive management of the program.
- **Refocused Program Priorities.** The Governor proposes to "refocus" the program and has identified a subset of actions that will be managed more intensively through the CALFED process. These actions generally include those that have a direct link to

problems and solutions in the Delta. Actions that have an indirect link to problems and solutions in the Delta, but contribute to a successful CALFED program, will be coordinated with those that have a direct link to the Delta. The plan also identifies key actions to be implemented over the next three to four years, including the following:

- Implement South Delta Improvement Program.
 - Complete Delta levee subventions and complete Delta Risk Management Study.
 - Implement Ecosystem Restoration Program actions to protect and restore pelagic organisms and other delta-dependent organisms.
 - Implement San Joaquin River salinity management.
- **Create 100-Year Delta Vision.** The Governor proposes to convene a panel of scientists to evaluate the latest information relative to the Delta. This information will be used to inform a larger public process to determine the 100-year vision for the Delta, including land use and transportation.
- **Develop a Voluntary Planning Agreement and Conservation Plan.** The Governor proposes to develop Habitat Conservation Plans and Natural Communities Conservation Plans to address endangered species issues in the Delta. The Governor proposes first negotiating a voluntary planning agreement to identify which water users are interested in security coverage and which activities they want covered. This agreement is targeted for completion in 2007.
- **Finance Plan.** The Governor's finance plan for the CALFED program includes new general obligation bonds and revenues from a fee on water hookups. However, until the new funding sources become available, the action plan identifies funding for the next three years of implementation of the CALFED program. The administration indicates that, of the \$1 billion required over the next three years, roughly 75 percent of the funding is in place. The plan proposes taking additional actions to obtain the remaining 25 percent of funding.

Near Term Funding Plan. The 10-year action plan for the CALFED program proposes additional actions that will raise the minimum funding necessary to implement the CALFED program over the next three years (years 6-8). The plan includes raising an additional \$223 million for the next three years by taking the following actions:

- **Pursuing additional state funding (\$76 million).**
 - \$42 million in remaining bond funds for water quality improvements.
 - \$34 million in new General Fund monies for Delta levee maintenance and improvements; Delta Risk Management Study and strategic planning, including the 100-Year Delta Vision (year 7); and possible new environmental documentation (year 8).
- **Pursuing additional federal funding (\$99 million).**
- **Pursuing a local match for some activities (\$18 million).**
 - Includes local matching funds for San Joaquin River Salinity Management and funding from local reclamation districts for levee maintenance.
- **Pursuing additional negotiated water user contributions (\$30 million).**
 - Delta Vision - \$2 million/year for two years.
 - Conservation Planning - \$3 million/year for two years.
 - Species Recovery Fund - \$6 million/year for two years.
 - Pelagic Organism Decline Studies - \$4 million/year for two years.

- State Water Project contractors and Central Valley Project contractors ensure adequate water for the Environmental Water Account in the budget year and seek full public funding for year 7.

LAO Recommendations. The LAO makes the following recommendations to improve the CALFED program:

- **Governance.** The LAO recommends the enactment of legislation to establish a revised governance structure consistent with the structure recommended by the Little Hoover Commission. The Little Hoover Commission called for reestablishing the policy group, which was a senior management team comprised of the primary state and federal departments involved in implementing the CALFED program. This group would be chaired by the Secretary for Resources and designee of the Department of Interior. The group would not include stakeholders as decision makers.
- **Expenditure Priorities.** The LAO recommends that the Legislature set expenditure priorities for the CALFED program. The LAO suggests that the statement of priorities could be contained in policy legislation that would guide future funding allocations for CALFED.
- **Performance Measures.** The LAO recommends that legislation be enacted to establish a small, select group of performance measures and expected outcomes for the CALFED program. Furthermore, the LAO recommends that the legislation require that any CALFED budget proposal submitted to the Legislature detail how the budget change would impact performance measures.
- **Financing Framework.** The LAO recommends that legislation be enacted that adopts the “beneficiary pays” principle for funding CALFED and provides specific guidance regarding its application. The LAO indicates that if this funding principle is not defined, there is a substantial risk that stakeholder gridlock would result when CALFED attempts to apply it on its own. Furthermore, the LAO is also concerned with the Governor’s plan to negotiate agreements with water users who would voluntarily contribute monies to CALFED based on their perception of the benefits that they receive from the program. The LAO finds that this “behind closed doors” approach is not a good way of making policy related to CALFED financing.

2. CALFED Governance and Program and Fiscal Management

Background. The CALFED 10-year action plan for the CALFED program identifies the following actions related to governance and program and fiscal management:

- **Identify State and Federal Leads.** The plan calls for identifying the Secretary for Resources as the state lead responsible for overseeing and implementing the CALFED program. It also proposes that the Governor request the Secretary of the Interior to designate a federal lead for the program.
- **Establish the CALFED Leadership Council.** The plan calls for establishing the council through a state/federal memorandum of understanding. The plan calls for a council comprised of seven state and seven federal agencies and stakeholder representatives.

- **Eliminate the Authority Board and Establish Independent Review and Oversight.** The plan calls for eliminating the Bay-Delta Authority Board and proposes an independent review similar to the review conducted in 2005. The independent review would be conducted every seven years.
- **Establish a State Public Advisory Committee.** The plan calls for establishing a new State Public Advisory Committee with as many as 30 members appointed by the Governor in consultation with the Secretary for the Interior. The Committee would replace the current federally-chartered Bay-Delta Public Advisory Committee.
- **Reassign Bay-Delta Authority Staff.** The plan calls for moving the Bay-Delta Authority staff to the Resources Agency under the direction of the Secretary for Resources.
- **Reorganize Bay-Delta Authority Staff to Support Leadership Council.** The plan calls for reorganizing the Bay-Delta Authority staff to provide strategic planning, program and fiscal tracking, communications, science, and general administration to the Leadership Council.
- **Strengthen Strategic Planning.** The plan calls for improving CALFED strategic planning by requiring implementing agencies to provide periodic updates to strategic plans based on progress made. The plan also calls for increased focus on program integration, coordination with statewide water resource planning, and engaging the public on planning issues.
- **Implement Common Program Management Standards and Performance Tracking Systems.** The plan calls for defining common project management standards and performance based management tools to develop information and data reporting measures to assess project and program performance.
- **Develop Implementation Plan for Performance Based Program Management.** The plan calls for developing a plan to implement performance based program management.
- **Funding Performance Based Program Management.** The plan calls for identifying new funding to support performance based program management activities.
- **Develop a Comprehensive Communications Strategy.** The plan calls for developing and implementing a comprehensive communications strategy to target outreach efforts to stakeholders, legislators, and the public.
- **Implement Common Fiscal Management and Reporting System.** The plan calls for developing a common fiscal management and reporting system possibly utilizing a web-based tool to enable implementing agencies to track project level data efficiently.
- **Improve Adaptive Management by Using Science to Inform Policy Decisions.** The plan calls for retaining science leadership within the Bay-Delta division at the Resources Agency. The Lead Scientist will act as direct advisor to the Leadership Council.

Finance Letter. A Finance Letter, dated April 18, 2006, proposes to transfer 68 of the 71 existing positions from the California Bay-Delta Authority to the Office of the Secretary for Resources. The proposal contained in the letter does not recommend legislation to eliminate the California Bay-Delta Authority as an independent entity or implement the Governor's new CALFED governance recommendations.

The proposal effectively creates a new Bay-Delta division within the Office of the Secretary for Resources and reorganizes existing staff to conform to new program requirements set out in the

10-year action plan. The Bay-Delta division, in the Office of the Secretary for Resources, will now have the following five divisions:

- Administration (22 positions).
- Communications (5.5 positions).
- Program Performance and Tracking (8.5 positions).
- Strategic Planning (10 positions).
- Science (11 positions).

Under the new governance structure, the Bay-Delta division will be reorganized and assume roles and responsibilities appropriate to improving program performance and accountability and to supporting the proposed CALFED Leadership Council, the independent oversight body, and the public advisory committee.

LAO Recommendation. The LAO recommends the enactment of legislation to establish a revised governance structure consistent with the structure recommended by the Little Hoover Commission. The Little Hoover Commission called for reestablishing the policy group, which was a senior management team comprised of the primary state and federal departments involved in implementing the CALFED program. This group would be chaired by the Secretary for Resources and designee of the Department of Interior. The group would not include stakeholders as decision makers as proposed by the Governor.

The LAO does not make any specific recommendations regarding the proposal to transfer the Bay-Delta Authority staff to the Resources Agency.

Staff Comments. The 10-year action plan lays out a complete proposal for new CALFED governance. The Finance Letter received addresses only one part of this proposal. It is difficult to analyze and make decisions about moving staff to reflect a new governance model when the new model has not been implemented. Staff finds that the Finance letter proposal is premature until legislation is submitted that implements the plan outlined in the 10-year action plan.

Furthermore, the Legislature should fully evaluate the benefits and costs of giving a cabinet secretary a relatively large program to manage. Historically, the office of a cabinet secretary has not played a large role in managing programs. That job more typically involves providing leadership and directing long-term strategic planning and initiatives. This proposal would require the Secretary for Resources to take on significant program management responsibilities. While the Secretary for Resources currently manages some bond funded programs, it does not currently have any programs of this magnitude under the direct management of the Secretary.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request staff, the LAO, DOF, and the Secretary for Resources inventory programs that are currently managed by the Secretary for Resources and other cabinet secretaries.
- Request the Secretary for Resources to submit a complete proposal, including necessary legislation, to implement the governance proposal contained in the Governor's 10-year action plan for the CALFED program.

2. 100-Year Delta Vision

Background. The CALFED 10-year action plan for the CALFED program identifies two actions related to the Delta Vision process. These actions include the following:

- **Delta Vision Public Process.** The administration plans to develop an open, collaborative public process involving local government and stakeholders to create a new 100-year vision for the Delta, including land use and transportation. The 10-year action plan indicates that work on the Delta Vision process commenced in January 2006, with a framework to be completed by December 2006, and a completed Delta Vision by December 2007.
- **Delta Science Panel.** The CALFED Science program will convene a small panel of science experts to review and synthesize the latest relevant scientific information on the Delta.

The Department of Water Resources is also conducting the Delta Risk Management Study (DRMS), which will be used to inform the Delta Vision process. This study will evaluate risk reduction strategies, including better maintenance, better levees, land use changes, and plan form changes (may include flooding some islands).

Governor's Budget. The Governor's budget includes \$5 million in funding to support the development of the Delta Vision. This includes \$2 million in General Fund monies and \$1 million from Proposition 50 bond funds to support the development of the DRMS study by the DWR. The administration also plans to expend \$2 million in continuously appropriated funding from the State Water Project contractors to fund the Delta Vision process. The latter funding is not subject to the annual budget act appropriation. The administration indicates that additional funding will also be provided by the federal government and the Central Valley Project contractors.

Legislative Oversight and Guidance. Legislation (AB 1200, Laird), enacted in 2005, directed the DWR and DFG to evaluate the potential impacts from failure of the San Francisco Bay-Delta levees and rate options for addressing the risks of levee failures as part of a comprehensive study on Delta levees. DWR has indicated that this study will be a part of the broader 100-Year Delta Vision process, along with the Delta Risk Management Study. However, it is unclear what the timeline is for these studies and how they will fit into the overall Delta Vision process.

Staff also finds that the Delta Vision process envisioned by the Governor is significantly broader than AB 1200 and any other legislative direction on this subject. The exercise of developing a broader vision for the Delta has merit. However, it is unclear whether there will be adequate opportunity for legislative oversight over the Delta Vision process or outcomes. The administration indicates that it is considering appointing a "Blue Ribbon Panel" of persons from outside of California that will guide the Delta Vision. There are no qualifications for these panel members and the outcomes of the process could be considerably varied since there is very little statutory direction guiding the process.

LAO Recommendation. The LAO is concerned with the Governor's plan to negotiate agreements with water users who would voluntarily contribute monies to CALFED based on their perception of the benefits that they receive from the program. The LAO finds that this

“behind closed doors” approach is not a good way of making policy related to CALFED financing. The LAO instead recommends the Legislature enact legislation that adopts the “beneficiary pays” principle for funding CALFED.

Staff Comments. Staff finds that a cost sharing between state, federal and water user fund sources is appropriate to fund the Delta Vision process. However, staff is concerned that the negotiated funding arrangement proposed by the Governor will create a perception problem. Mainly, the public may perceive that, because the state water contractors are funding the Delta Vision process, they will “buy” outcomes that benefit their interests.

Staff Recommendation. Staff recommends that the Subcommittee request additional information from the administration on the following:

- Additional details on the Delta Vision process, including how other reports will have input into this process and how the panel will be selected to guide the process.
- Additional information on how different departments will have input into the Delta Vision process, including the Delta Protection Commission.

3. Delta Levees Program

Background. The Delta Levees Program is responsible for improving the flood protection and ecosystem resources of the Delta Levee System. The DWR sponsors locals, who undertake various improvement projects to achieve these ends for the benefit of Delta landowners, State Water Project contractors, and the ecological communities that depend on vital natural habitats.

Governor’s Budget. The budget includes \$17 million (\$15 million General Fund) for various delta levee expenditures, including ongoing General Fund monies for the Delta Levee Subvention program and one-time funding for the development of a Delta Risk Management Study.

Projects	On-going	One-Time	Positions
Delta Levee Subventions (One-time funding from the Delta Flood Protection Fund)	\$8,370	\$995	
Environmental Permitting (DFG)	\$600		
Survey of existing habitats on levees (Chico State)	\$50		
Delta Risk Management Strategy Study (\$1 million from Proposition 50 bond funds)		\$3,000	
Subsidence research (USGS)	\$300		
Emergency response in the Delta (San Joaquin County)	\$50		
Staffing to support the Delta Levee Subvention Program, Maintenance Subvention Program, Special Projects Program, and Emergency Response Program	\$3,635		18.0

Workload Justification. In the near term, staff finds that the best strategy for reducing flood risks is to correct known deficiencies and immediately develop a longer-term plan for future improvements. The Delta levees are currently at great risk of collapse in the event of an

earthquake or major flood. The cost of fixing critical Delta levees to make them reasonably resistant to flood and seismic events has been estimated at \$3 to \$5 billion. Staff finds that the budget proposal sets out funding for existing positions. These positions are needed to implement the Delta levee subvention program.

LAO Recommendation. The LAO recommends that the Legislature enact legislation that adopts the “beneficiary pays” principle for funding CALFED and provides specific guidance regarding its application.

Staff Comments. Staff finds that the General Fund is an appropriate funding source for a portion of the Delta Levee Subvention program. However, ongoing contributions should also be made by local reclamation districts and the State Water Project contractors. Staff needs additional information on the matching funds required by the local reclamation districts to receive delta levee subvention monies. Also, staff needs additional information about the Delta Flood Protection Fund including the source of revenues to this fund. Staff finds that the state has not expended money from this fund in several years.

State-Owned Islands. The state owns Sherman and Twitchell islands in the Delta, which are leased for farming operations that generate \$380,000 annually to maintain the levees protecting the islands. Staff finds that the farming employed on the islands is contributing to the subsidence of the islands, making the levees that protect them more prone to failure. The department indicates that it plans to limit renewals of the leases to grazing, which will slow down the rate of subsidence on these islands. The department also indicates that its current practice is to limit the leases to one-year renewals in order to preserve management flexibility related to these islands.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that DWR provide additional information on the source of funding for the Delta Flood Protection Fund and the amount of local matching funds expected in the budget year.
- Request that DWR provide more detailed information on the current agricultural leases on Sherman and Twitchell Islands, including information on when they expire and the revenues that they generate.

4. Conservation Plan Development

Background. The Governor’s 10-year action plan for the CALFED program calls for the development of a Habitat Conservation Plan and Natural Community Conservation Plan to address endangered species issues in the Delta. The Governor proposes first negotiating a voluntary planning agreement to identify which water users are interested in security coverage and which activities they want covered. This agreement is targeted for completion in 2007.

Governor’s Budget. The Finance Letters, dated March 30, 2006, propose to allocate \$2.8 million to the Department of Fish and Game (DFG) and \$817,000 to the Department of Water Resources to start the development of one or more conservation plans in the Sacramento-San Joaquin Delta.

The \$2.8 million (\$2.3 million in reimbursements and \$500,000 in federal funding) in funding for the Department of Fish and Game will support 16 positions and \$500,000 in contracts to support local jurisdictions in developing regional conservation plans. The reimbursements come from funding provided by the Central Valley Project and State Water Project contractors.

The \$817,000 in reimbursement funding for the Department of Water Resources will support four existing positions. The reimbursements come from funding provided by the Central Valley Project and State Water Project contractors.

Staff Comments. Staff finds that conservation planning can be effective in preserving habitat and species in areas where it has been employed. The majority of conservation plans thus far have been relatively small compared to the region encompassed by the Sacramento-San Joaquin Bay-Delta. Furthermore, other conservation plans around the state have not included a body of water the size of the Bay-Delta. Staff finds that the sheer size of the conservation plan being proposed by the 10-year action plan may make it difficult to complete.

The 10-year action plan for the CALFED program indicates that the first task will be to develop a voluntary planning agreement to identify which water users are interested in coverage by the plan and which activities they want covered. The department indicates that it plans to complete this agreement in 2007. Given the significant amount of groundwork that needs to be completed before a conservation plan can be developed, it is unclear why \$3.5 million is needed in the budget year to develop the planning agreement.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request DWR and DFG to develop a timeline of actions that need to occur before a conservation plan can be developed.

5. South Delta Improvements Program

Background. The South Delta Improvements Program has, as its purpose, the construction of permanent operable barriers at the south end of the Delta to improve water levels, improve water circulation, and protect salmon and other fish. The program also calls for increasing pumping from the delta to 8,500 feet per second when water is available and environmental conditions allow. The DWR estimates that this increase in pumping would increase the water diverted from the Delta by about 3 to 5 percent on an annual basis.

The DWR is currently moving forward on constructing the permanent operable barriers and the draft environmental impact report (EIR) for this project was released in November 2005. The department is currently addressing public comments and preparing the final EIR. The 2005 budget provided \$15 million in Proposition 13 bond funds to support the remaining design work related to constructing the permanent operable barriers.

The DWR reports that it is not taking action to increase pumping to 8,500 feet per second at this time.

Governor's Budget. The Governor's budget proposes \$41.6 million in state bond funds (\$26.6 million from Proposition 13 and \$15 million from Proposition 50) to fund the South Delta Improvements Program. These funds are provided for dredging and the construction of permanent operable gates.

LAO Recommendation. The LAO recommends that the Legislature enact legislation that adopts the "beneficiary pays" principle for funding CALFED and provides specific guidance regarding its application.

Staff Comments. Staff finds that the total cost of constructing the South Delta Improvements Program is \$110.5 million. The DWR indicates that the State Water Project contractors will contribute about 5 percent of the total cost of the project. Central Valley Project contractors will experience a 10 percent improvement in water quality, are not contributing any funding towards this project. This fact does not comport with the beneficiary pays principle since state funds will cover over 95 percent of all costs associated with this program. State funds should be used to fund a portion of this project, but staff finds that the operable barriers will improve operating flexibility in the Delta, which should help to avoid situations where pumping would be shut down due to endangered species issues. Therefore, water exporters from the delta will benefit from the construction of these new operable barriers and should help to fund a portion of the costs of constructing the barriers.

Increased Pumping. The DWR has made a concerted effort to separate the issue of building the permanent operable barriers from the issue of increasing pumping to 8,500 feet/second. However, the department's draft EIR does not make this distinction. All of the scenarios considered under the draft EIR include increasing pumping to 8,500 feet/second. The department maintains that it is not making the decision to increase pumping at this time. However, the draft EIR suggests that the decision would be allowed after the permanent operable barriers are installed. If construction of the operable barriers allows the contractors to increase pumping to 8,500 feet/second Delta water exporters will benefit. However, even if pumping is not increased, Delta water exporters will benefit from increased operational flexibility.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:

- Request DWR to provide additional information on all of the benefits and beneficiaries of constructing the permanent operable barriers.

3840 Delta Protection Commission

Background. The Delta Protection Commission (DPC) was created by statute in 1992 to develop a long-term resources management plan for land uses within the Sacramento-San Joaquin Delta. This plan is implemented by local governments in their land use planning processes. Broadly speaking, the main goal of the commission is to protect and enhance the overall quality of the Delta environment for agriculture, wildlife habitat, and recreational activities.

Governor's Budget. The Governor's budget proposes a small increase in funding for DPC. The increase in funding will support small increases in salaries and operating expenses at DPC.

Summary of Expenditures				
(dollars in thousands)	2005-06	2006-07	\$ Change	% Change
Type of Expenditure				
State Operations	\$327	\$367	\$40	12.2
Total	\$327	\$367	\$40	12.2
Funding Source				
Environmental License Plate Fund	\$150	\$154	\$4	2.7
<i>Budget Act Total</i>	<i>150</i>	<i>154</i>	<i>4</i>	<i>2.7</i>
Harbors and Watercraft Revolving Fund	177	213	36	20.3
Total	\$327	\$367	\$40	12.2

1. Budget Adjustment

Governor's Budget. The budget proposes \$30,000 from the Harbors and Watercraft Revolving Fund to support salaries for staff support to the Commission.

Workload Justification. The commission's budget has been reduced over the past decade due to general budget reductions and the current budget no longer covers the three positions at the department. Other administrative costs related to printing and travel have also increased.

Role in Delta Vision Process. The DPC indicates that it will have a role in the Delta Vision process. The DPC indicates that if a Delta-wide regional plan is developed as part of the Delta Vision it would have a role as the overseeing entity.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.